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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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The meeting was called to order at 10.10 a.m.

STATEMENT BY THE MINISTER OF JUSTICE OF PERU

1. The CHAIRMAN invited the Minister of Justice of Peru to address the Commission.

2. Mr. VEGA SANTA GADEA (Peru) said that the Commission should take immediate action on the new challenges confronting the world, including extreme poverty, terrorism, drug trafficking, and the rise of ethnic and nationalist intolerance. It must build on the momentum created by the World Conference on Human Rights and implement the recommendations contained in the Vienna Declaration and Programme of Action.

3. The strengthening of peace-keeping forces in Bosnia should be firmly supported by all peace-loving nations. In that connection, his Government fully endorsed the statement by the Chairman of the Commission on the recent tragedy which had occurred in the Sarajevo market.

4. His country had made an extraordinary effort to turn around its economy, control hyperinflation, introduce tax reform and become reintegrated into the international financial system. It had held elections for a democratic Constituent Congress and had subsequently held a constitutional referendum. Strong international support would be needed to consolidate those efforts, which had prevented war and saved the country from ruin. Although 12 years of economic crisis and violence could not be reversed in a mere 3 years, the world was aware that there had been an undeniable change in Peru.

5. The new political Constitution, drafted by a democratically elected Constituent Congress and approved by the referendum of 31 October 1993, had entered into force on 31 December of that year. Its first provisions enshrined the fundamental human rights and incorporated some new concepts aimed at strengthening national integration and citizen participation, through, in particular, the legislative initiative, referendums and, where necessary, the removal of authorities from office.

6. A constitutionally established human rights ombudsman could require the cooperation of any public institution or agency and could introduce laws to facilitate his work. The comprehensive national registry of detainees, for which he was responsible, was an effective guarantee that would enable any public or private institution or any citizen to obtain official information, updated daily, on any person detained in the country's prisons.

7. The international specialized agencies and the vast majority of non-governmental organizations (NGOs) recognized that there had been a sharp decrease in the reports of missing persons and other human rights violations in Peru. However, some opposition groups critical of the Government had pointed out that the limitations of the Anti-Terrorist Act could render possible arbitrary detentions and judicial errors. While his Government respected, without sharing, the political position of those groups, it believed that those criticisms were unsubstantiated. In fact the Government's tangible achievements had been recognized by impartial observers, who also

held the terrorist group Sendero Luminoso (The Shining Path) responsible for most human rights abuses in Peru.

8. In evaluating the human rights situation in Peru, it was important to note that alleged human rights abuses and Government actions could be freely denounced. Peru firmly guaranteed freedom of the press and freedom of opinion, the pillars of democracy and justice, and that, in turn, aided the fight against terrorism. The incarceration of 95 per cent of the terrorist leadership had rekindled Peruvians' hopes, and the threat of Marxist-Leninist-Maoist communism no longer hung over the country.

9. The 25,000 deaths at the hands of the terrorists could not be easily forgotten, of course, and the material costs of terrorism had been of the order of $21 billion, equivalent to Peru's total external debt. That did not include the opportunity costs, such as the loss of potential national and foreign investment and the collapse of tourism, which must be added to reveal the full social costs of terrorism.

10. Until April 1992, terrorism had corrupted the judiciary virtually paralysing it. Only a handful of guilty verdicts had been rendered by a few upright judges while more than 200 persons accused of terrorism had been released from jail only to rejoin terrorist death squads. Under these circumstances, the Government had had to protect the nation. As violence was gradually brought under control, it was able to relax the emergency measures. It had amended some major elements of the Anti-Terrorist Act and the possibility of reviewing the verdicts of the military courts had been introduced to reduce the margins of judicial error. The Government would continue to show flexibility but would not lower its guard as long as a single terrorist continued to operate. Those who suggested otherwise simply did not understand the harsh Peruvian reality.

11. The appointment of new members of the Supreme Court of Justice and new senior government procurators had inaugurated a new era in which the courts were independent of the executive and legislative powers. That would help to promote foreign investment which was essential to economic recovery and national development. The modernization of prison facilities, begun in 1992, would promote respect for the human rights of detainees who had been living in sub-human conditions. By 1995, Peru's prison infrastructure was expected to be among the best in South America.

12. Those achievements would consolidate earlier initiatives such as normalizing the activities of the International Committee of the Red Cross (ICRC) in Peru and allowing Government procurators access to all prison facilities. As a result, human rights violations in Peru had steadily decreased for the first time in ten years. His Government's objective was the total elimination of such abuses. At the same time, his Government had placed new emphasis on responding to all communications from the competent international monitoring agencies. The National Human Rights Council had been revived to enhance the coordination of national activities and to promote respect for human rights.

13. Any abuses by members of the armed forces or the police would be severely punished. The Government guaranteed the independence of the Government

attorney's department and the judiciary in carrying out such investigations and applying the very severe punishments specified in such cases. However, in the belief that prevention was better than cure, it had launched an intensive - and very costly - educational campaign. For the first time, human rights courses were included in the curriculum of police and military training academies. With reference to the case of the 10 persons missing from La Cantuta University, he said that the military court would give its verdict in the coming weeks and any members of the armed forces found guilty would be severely punished.

14. As for economic, social and cultural rights, he said that the programmes of stabilization and structural reform could not possibly have a significant impact on poverty in the short term. The Government had therefore revamped its social policy, so as to target critical poverty in particular. The creation of new jobs had been effective but was still not sufficient to satisfy the basic needs of the population. The urgent social deficit representing the poorest half of the population was US$ 2.8 billion, while the food shortage among persons in extreme poverty was US$ 1.1 billion.

15. The Government was also focusing on the protection of children and the advancement of women. In circumstances of economic crisis and terrorist violence, women had played active parts in preserving their families and were beginning to assume productive roles and emerge as community leaders. In the health and education sectors, a selective programme of action was being implemented to build basic institutional capacity and to sponsor supplementary feeding programmes.

16. The Commission should continue its examination of the initiative put forward by his delegation, concerning multilateral action in the area of terrorism. Since human rights thinking in the United Nations must keep up with events his delegation would thus submit to the Commission at its current session a draft resolution on human rights and terrorism based on an updated version of its earlier initiative.

17. Peru was an ethnically diverse country comprising 60 ethno-linguistic groups. The rural population consisted of more than 4,500 farming communities. The indigenous communities, in the poorest areas of the country, were the most common victims of terrorism and had requested the Government's help in forming self-defence patrol units. There had also been a deterioration in the environment of the jungle areas where indigenous communities lived, chiefly as a result of drug traffickers' waste.

18. Peasants from the Andes and indigenous peoples accounted for 70 per cent of the persons internally displaced as a result of terrorist-related violence. Their numbers were estimated at 600,000 (120,000 families). The Government had launched a project to assist them within the framework of the National Development Institute (INADE). While there was protective machinery for refugees in international law, it was incumbent on the national Government to resolve the problem of the internally displaced persons within its territory. There was thus an urgent need for international action on legal and political guidelines to prevent displaced persons from becoming refugees. In that connection, his delegation requested multi-agency action similar to that mobilized in support of the UNHCR humanitarian work in Azerbaijan.

19. Lastly, Peru had requested assistance to fulfil its periodic reporting obligations from the Centre for Human Rights, a request that he wished to reiterate. He took the opportunity also of paying tribute to the dedicated work of the staff of the Centre.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 13) (continued) (E/CN.4/1994/62*)
RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 18) (continued) (E/CN.4/1994/72, 92 and 107; E/CN.4/1994/NGO/20; E/CN.4/Sub.2/1993/34 and Add.1-4; A/48/509 and Add.1)
IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 20) (E/CN.4/1994/79, 80 and 105; E/CN.4/1993/62; E/CN.4/1994/NGO/10)

20. Mrs. BAYDUR (Observer for Turkey) said that the migrant workers in the world totalled 20 million. Though legally aliens, they had sometimes been settled in the countries using their labour for two or even three generations. In the circumstances, the term "resident workers" was more appropriate than "migrant workers". They were not, however, entitled to participate in the life of the host country on the same footing as citizens. Because they had been excluded from the mainstream of society, they had become the main targets of resurgent racism in Western Europe and were living under constant threat of murder, arson and other offences from racist groups.

21. Resident workers fulfilled all the obligations of citizenship, other than military service. However, they did not have equal rights and opportunities. As a recent ILO report had noted, discrimination in employment of migrant workers in Western Europe was, although forbidden by law, pervasive and widespread. Thus, protection of resident workers against racist attacks was important but not sufficient. The denial of equal opportunities to such workers and their children created an ethnic underclass and projected a false image of them.

22. Rejection in the labour market restricted their housing possibilities and caused them to settle in districts where educational facilities were limited. The poor education that resulted limited employment opportunities and the cycle of deprivation was repeated for the second generation. Discrimination on the basis of race or ethnic background thus built a society stratified along lines of ethnicity or cultural relativism, a spawning ground for xenophobia and racism.

23. That was a vicious circle that had to be broken. Government policies should seek to ensure the integration of resident workers into society but not their assimilation, since they had the right to protect their national identities. They should be enabled to participate in the political life of the country and have the right to vote in local elections. Conditions for dual nationally should be facilitated. Anti-racist policies should increase public awareness of the pluralist and multicultural nature of modern societies.

24. The problem of resident workers was primarily a human rights question and thus of concern to the entire international community. She hoped that the Commission would adopt a resolution on the subject at its current session.

25. With regard to the question of minorities, the right balance must be struck between cultural diversity and the territorial integrity and the political unity of States. In her view, there were three parameters that should be taken into account. The first of them was the existing law on the rights of persons belonging to national minorities, including bilateral treaties, which often contained detailed provisions on the rights of such persons and in which States parties undertook specific contractual obligations. The second was that the rules on the rights of persons belonging to national minorities complemented but did not replace human rights law, the fundamental rule of which was non-discrimination. The third parameter concerned the protection of the territorial integrity and political unity of States.

26. The Secretary-General had stated that the sovereignty, territorial integrity and independence of States within the established international system and the principle of self-determination of peoples must not be permitted to work against each other, and the Vienna Declaration of the World Conference on Human Rights had harmonized those two principles.

27. It was difficult to prescribe universal and uniform rules for persons belonging to national minorities, largely because of the lack of an agreed definition of the word "minority". Situations also varied greatly from country to country. In many circumstances, therefore, general human rights law was to be preferred. In any case, the main objective was to ensure that individuals with different ethnic characteristics could coexist peacefully in the country in which they lived. To achieve that objective, it was necessary to place equal emphasis on both the rights and the duties of the people belonging to national minorities. That was particularly important when the world was currently witnessing massive and flagrant violations of human rights perpetrated by minority groups against members of the majority.

28. Mr. SEIDERMAN (World Organization against Torture) said that his organization urged the Commission to adopt the proposal contained in the report of the Sub-Commission's Special Rapporteur on "Possible ways and means of facilitating the peaceful and constructive solutions of problems involving minorities" (E/CN.4/Sub.2/1993/34, para. 44) that a working group on minority issues be established. Such an action would move the Commission towards a more interactive posture on minority rights promotion. He would also endorse any initiative by the Commission to expand the principles of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and develop a treaty mechanism.

29. The situation in the former Yugoslavia underlined the urgent need for greater progress on the part of the international community in dealing with minority rights issues. The enunciation of positive rights through a treaty mechanism would provide aggrieved persons with a wider forum through which to seek redress. Neither the Declaration nor a treaty mechanism would prevent demagogues from pursuing their quest for political gains by a cynical targeting of minority groups. The international community must not acquiesce in such officially orchestrated attacks on minority populations. No Member State was without minority populations and many States were facing situations similar to that in the former Yugoslavia.

30. In its efforts to combat secessionist militants claiming the right of self-determination, the Government of India had belied its contention that the people of Jammu and Kashmir were Indian nationals by its brutal treatment of them. The repression by the Indian security forces of the secessionists had been marked by gross abuses including torture, extrajudicial executions, mass rape and enforced disappearances.

31. In Tibet, the Chinese Government continued to suppress traditional cultural and religious practices. It regularly interfered with Tibetan Buddhist religious ceremonies, applied a strategy of cultural dilution through the massive settlement of Chinese in Tibet and was holding several hundred Tibetans as political prisoners. China's pattern of abuses in Tibet also included such deplorable practices as enforced birth control and severe destruction of the ecosystem.

32. Iraq continued its relentless persecution of its minority populations. While the Shiites in southern Iraq and the Kurds in Iraqi Kurdistan had received some specific, albeit inadequate, protection from the Security Council, the marsh Arabs had been neglected by the international community. They had been driven from their land by a policy of deliberate destruction of the marsh habitat and its supporting ecostructures. Numerous extrajudicial executions had occurred in the marshes, many in apparent retaliation for opposition activities during the Gulf War.

33. The civil war in the Sudan was a direct consequence of the Khartoum Government's drive to impose a regime of coercive and discriminatory structures on the minority populations. Despite the fact that 27 per cent of the nation's population was non-Muslim and that the Muslim population comprised a wide array of sects, the Government was attempting to impose a rigid conception of religious law on the nation at large.

34. While many Governments paid lip service to the rights of indigenous peoples, discrimination and the suppression of cultural identity remained widespread. In that regard, the conflict in Chiapas should not have surprised the Mexican authorities, since the Government had consistently given short shrift to the striving of the Mayan communities for greater autonomy, agrarian reform and respect for cultural identity.

35. Governments were obliged not only to respect and promote human rights through their own actions but also to ensure that those rights were protected from the actions of others. That duty was especially pertinent regarding situations stemming from the recent violence by racist, anti-Semitic and xenophobic elements, most notably in Western Europe. Governments must take steps to prevent and prosecute such attacks with greater vigilance than in the case of common crimes, since attacks against individuals based upon ethnicity were tantamount to attacks on the entire ethnic community.

36. His organization noted with great concern the recent trend by Western European Governments, such as France and Germany, of responding to xenophobia by restricting immigration and refugee flows. Such action had the dual effect of punishing immigrants, many of whom were genuine refugees entitled to protection under international law, and of rewarding the propagators of hate and xenophobia and thus encouraging further attacks.

37. The United States had steadily increased its rate of judicially imposed executions. What made that practice doubly odious was the frequency with which such punishment was applied to the African-American population as compared to the majority white population. Discriminatory practices with regard to death-penalty sentencing should provide an additional impetus for the United States to reverse its ever-increasing resort to capital punishment.

38. Mr. ABRAM (World Jewish Congress) said that religious extremism, especially political "Parties of God", was a threat to human rights as recognized in the United Nations system. While his organization did not contest the right of any person or group to practise a religious belief and to express it to others - the essence of article 18 of the Universal Declaration of Human Rights - it did contest religiosity which sought to impose a monopoly of belief and a political monopoly derived from that belief on the whole of society. That was incompatible not only with religious freedom but also with human rights.

39. It was paradoxical that efforts of a religious group to impose its beliefs on another should blemish with blood so much of human history because, if religious belief was self-evident, there would be no need to convince others and if belief was ordained by an omnipotent God, that power alone would have made it uniform. Religion was a matter of tradition and faith, which, if imposed by one upon another, especially by force, was tyranny.

40. In the current century, millions of people had been and were being slain in the name of some group's "holy" beliefs. He wondered, however, whether the contest was really over religion or whether religion was only a cover for the acquisition of temporal as well as spiritual power over others. There was always the danger that those conflicts would spread beyond the invasion of conscience. It was particularly difficult to respond to those who successfully gained power by a majority vote, after pledging to use that power to enforce a uniform belief and practice.

41. The term "fundamentalism" had originally been applied to a Protestant Christian movement characterized by belief in the literal truth of the Bible. He himself had grown up among Baptist fundamentalists who, although happy to persuade others, would have rejected the thought of doing so by force or by government decree. They believed in the separation of church and State and announced that as a principal belief, which also served to prevent a majority of non-fundamentalists from interfering with their beliefs and practices.

42. The principles contained in article 21 of the Universal Declaration in effect constituted a separation between church and State. They underlay the constitutions of many States, which guaranteed religious freedom and, equally important, the separation of church and State. Thus, while religious passions inflamed many countries and fuelled terrorism and war, the United States, for instance, enjoyed relative religious peace.

43. Religious extremists who fought to impose their beliefs by force or by law were an enemy of civilization because they would freeze thought, throttle progress and gain power by intimidation and terror. Inevitably, there would be rebellions against such an unnatural order and repression to maintain it.

44. If the Universal Declaration's principles, which had been accepted by every Government represented in the United Nations, were applied there would be no persecution because of religious belief and no fatwa imposing death for literary works.

45. In conclusion, he stressed the urgent need for the Commission to adopt a resolution reaffirming articles 18 and 21 of the Universal Declaration and condemning in no uncertain terms the violation of those principles by religious extremists.

46. Mr. VAN AI (International Federation of Human Rights) said that the Federation and its affiliate, the Vietnamese Committee for the Defence of Human Rights was extremely concerned at the persistent repressive measures adopted by the Government of Viet Nam against the members of the traditional Unified Buddhist Church of Viet Nam. A recent example was a trial that had resulted in prison sentences of three to four years for four Buddhist monks accused of having disturbed public order because of their participation in a peaceful demonstration. Following their arrest, the authorities had waged an intensive campaign of denigration against them, seriously compromising the presumption of innocence recognized by Vietnamese legislation.

47. In the cast of a Buddhist who had set fire to himself, the local authorities had at first alleged that he had taken his life because he had contracted AIDs and had then said that he had had a dispute with his wife. In fact, he had been a fervent Buddhist who had given his life for the cause of his church.

48. The four monks had not been allowed to receive visits either before or after their trial or to have lawyers of their choice. Their relatives had not been authorized to attend the trial, despite the statements made by the Government to the Special Rapporteur that the trial was public. That trial, and others like it, formed part of a deliberate policy to hamper the activities of the Unified Buddhist Church and prevent it from helping its new Patriarch.

49. Thich Huyên Quang had succeeded Dôn Hâu as leader of the Unified Buddhist Church. Despite the information that the Government had provided to the Special Rapporteur, Thich Huyên Qang was still kept in complete isolation under the surveillance of the security forces and his remaining assistants had been expelled from his pagoda. On the pretext that his residence permit was invalid, he was forbidden to go out, communicate with the outside world or see a doctor.

50. The Patriarch's pleas to the authorities to reopen the pagodas and other religious centres which had been confiscated or turned over to the State had been met with further repressive measures. The Department of Religious Affairs had forbidden him to use his title or the official seal of the Unified Buddhist Church.

51. Although religious freedom was guaranteed by the Constitution of 1992 and a decree issued by the Council of Ministers in 1991, a memorandum dated 4 December 1993 ordered the local authorities to enforce strictly an earlier ruling which stated that religious books could be published only by government

publishing houses, the criteria for admitting persons to religious training were civic rather than religious and moral and that harsh punishment must be imposed for "slander or distortion of the truth". Though used against Christians also, the primary target of the memorandum was the Unified Buddhist Church.

52. His organization noted with great interest a recent statement by a Deputy Minister that there was no human rights problem in Viet Nam. It thus reiterated its request to the Government to authorize an international fact-finding mission to visit Viet Nam in order to investigate the situation on the spot. It urged States which had relations with the Republic of South Viet Nam to intervene to that end and requested the Commission to continue to consider the question of Viet Nam on a priority basis.

53. Mr. ROSSI (International Association for the Defense of Religious Liberty) said he welcomed the support given by the World Conference on Human Rights to freedom of thought, conscience, religion or conviction. The Vienna Declaration and Programme of Action requested Governments to recognize each individual's right in that regard and to take appropriate measures to control religiously motivated intolerance and violence.

54. Unfortunately, however, the world was witnessing a disturbing rise in intolerance, the refusal to accept a person whose race, language, culture or religion was different. The ethnic cleansing in Bosnia and Herzegovina was a harrowing example. The pluralistic nature of society was most absurdly denied on occasions, religion being invoked as a justification.

55. Thus, endeavours were being made to establish theocracies, ruled by the dominant religion, considered to be the only true religion. Thus, Muslim fundamentalists sought to transform all States with Muslim majorities into Islamic States governed by the Shariah. Hindu fundamentalists sought to turn India into a Hindu State. Christians were practising ethnic cleansing of Muslims in the territories of the former Yugoslavia. Whether or not what was occurring in Bosnia was a veritable religious war, there was no doubt that violence, triggered by religious extremism, had reached very disturbing proportions and had claimed millions of lives.

56. Religious extremism led to an absurdity: killing in the name of God. In the name of God, extremists were killing tourists in Egypt, foreigners in Algeria and non-fundamentalist Muslims in the Sudan. In the name of God, many Governments pronounced death sentences against persons exercising their fundamental human right to change their religion. In the name of God, believers were incited to hatred of those professing other religions. None of those actions was prescribed or justified in the Koran.

57. History showed that all the great religions had experienced periods of obscurantism during which they had lost their true values. The crusades were a case in point. It was very necessary to rediscover the authentic teaching of the founders of the universal religions for they had not preached the rejection and elimination of others but rather respect for every human being.

58. The Commission must react energetically to the rise in religious extremism, which seriously endangered human rights and international

stability. It should, in particular, give urgent consideration to the possibility of drafting, by 1995, an international convention on freedom of thought, conscience and religion, a binding instrument with a supervisory committee composed of experts.

59. Ms. ALA'I (Baha'i International Community) said that religious intolerance was especially damaging because it was characteristically carried out in the name of God, an assumption of righteousness that often resulted in flagrant violations of human rights. Nevertheless, there was often historical evidence to show that diverse religious communities, even some of those currently perpetrating violent acts against one another, could live together in peace. Believers in God, of all faiths, had a particular responsibility to respect and defend freedom of religion and worship for all.

60. The Baha'i faith taught the principle of mutual tolerance and viewed religion as a vital force for unity among peoples. Regrettably, disunity was common in relations between and within religions. The consequences of intolerance were grave, because when discord was promoted among groups within and between States, it threatened the peace and security of the international community.

61. The situation of the Baha'is in the Islamic Republic of Iran did not appear in the 1993 report on religious intolerance (E/CN.4/1994/79), unlike the practise in previous years. According to the report, that was because the Government of the Islamic Republic of Iran had not responded to the Special Rapporteur in time, not having been notified sufficiently in advance. The Baha'i International Community thus wished to place on record the fact that, on 25 August 1993, it had submitted information to the Secretariat on the situation of the Baha'is in the Islamic Republic of Iran.

62. The reality for many minorities bore no resemblance to the minimum standards set forth in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Members of the very minority groups whom the Declaration had been designed to protect were still experiencing intense suffering in a number of violent conflicts around the world.

63. Whereas majorities had a special responsibility to bring about the social and political adjustments that would enable minorities to exercise to the fullest possible extent the rights that they had in common with everyone else, minorities had a moral responsibility to respond honourably to genuine efforts by majorities. Both sides must view minority issues in the context of an increasingly interdependent world.

64. Governments must enact the necessary legislation so that minorities could claim their just rights and redress their grievances. But such action was not sufficient: majorities must change their attitudes towards oppressed minorities, and minorities must be liberated from the sense of helplessness induced by prolonged discrimination. That was a challenge that was not entirely within the ability of Governments to meet, as it called for the influence of spiritual and moral principles.

65. The diversity of the human family must be recognized as a source of enrichment rather than a threat. Majorities and minorities alike must be imbued with an awareness of their moral responsibilities as fellow human beings. That sense of responsibility vitalized such virtues as forbearance and compassion towards all people, emboldening the voice of conscience and the language of the heart. In an age of turbulent transition, a consciousness of the oneness of mankind would allow minorities to be seen as an integral part of every society, rendering obsolete the animosities based upon ethnic, linguistic and religious differences.

66. The Baha'i Writings indicated that, if any discrimination was to be tolerated, it should be in favour of, not against, minorities. The first obligation of a community should be to promote and protect every minority, regardless of faith, race, class or nation. The principle of unity and diversity was essential for establishing a just and peaceful global order.

67. Mr. PHILIPS (Minority Rights Group) said that the Commission should be inspired by the work of States that had recovered from major intercommunity conflicts in the past, such as Austria, Bulgaria, Lebanon, Nigeria and Malaysia, and should draw upon the positive experiences of others, such as Mauritius and the Netherlands.

68. He had originally intended to argue in favour of the creation of a new mechanism by the Commission to monitor implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It had, in fact, become clear that the real issue was what kind of mechanism should be established. At the same time, it would be irresponsible of the Commission to ignore the issue of the cost of a working group or a special rapporteur.

69. The Sub-Commission's Special Rapporteur had noted in his study (E/CN.4/Sub.2/1993/34, para. 18) that, in spite of the resolutions adopted by the Sub-Commission and the Commission, the Centre for Human Rights had not been able to provide him with any consultancy assistance. At the same time, Governments and United Nations bodies and agencies were spending billions of dollars on refugees. That absurd contrast needed to be reviewed to ensure that interrelated priorities were set and resources determined accordingly. The costs of the measures that needed to be taken were small compared to the benefits that could be achieved.

70. His organization had been honoured to convene a seminar with the Government of Finland in 1993, as well as a seminar with the United Nations Association of the United States of America and the Jacob Blaustein Institute for the Advancement of Human Rights in New York later that year on the implementation of the Declaration, the conclusions of which were attached as an addendum to the Secretary-General's report to the General Assembly (A/48/509/Add.1). It would be pleased to continue such initiatives in the future, if they helped to promote justice for minorities and peaceful cooperation between communities.

71. Much could be done within the United Nations system. Unfortunately, the Sub-Commission had devoted only two hours of a 20-day meeting to considering the final report of its Special Rapporteur's three-year study, and

the 29 measures proposed in it had been largely ignored. The Commission must urge the Sub-Commission to allocate a significant part of its discussion to minority issues and to seek new ways of opening a dialogue with minority communities.

72. As suggested in the addendum to the Secretary-General's report, the Commission should establish a working group whose terms of reference should be to: promote an understanding and implementation of the Declaration; examine and explore models of good practice, including the recommendations of the Special Rapporteur; promote very early action, including programmes, and encourage bridge-building across communities; advise and encourage the organs and specialized agencies of the United Nations in their contribution to the full realization of the rights and principles set forth in the Declaration; and appoint an expert to assist the working group.

73. Ms. LUONG THI NGA (Pax Romana) said that her organization had previously alerted the Commission to the grave human rights violations committed by the Socialist Republic of Viet Nam against certain South Vietnamese social and religious minorities, such as war invalids, widows and orphans. The victims and their families had been deported to the new economic zones, gulags in disguise, their homes, property, allowances and even their prosthetic devices being confiscated for the benefit of the victorious army. They had been refused medical care and private humanitarian aid sent to them by their compatriots abroad had been intercepted. Young South Vietnamese orphans had been misused for sexual tourism so as to attract foreign currency.

74. Her organization also drew the Commission's attention to the tragic situation of the Hoa Hao Buddhist Church, which had a membership of 4 million persons. That Church had long been the target of systematic persecution by the Vietnamese Government. Church leaders had been imprisoned without trial and tortured to death. The faithful had been placed under police surveillance, and arbitrary arrests and mysterious disappearances were their daily lot. The celebration of religious festivals, whether in public or in private, was strictly forbidden.

75. All the Church's property, including a university and a hospital, had been confiscated and its places of worship had been converted into propaganda offices or even pigsties.

76. The Caodaist Church, which had had 3 million faithful at the time of the annexation of South Viet Nam, had also been the target of persecution. Its headquarters had been seized, its leaders replaced by puppets, and its central library completely destroyed. Its university and schools had been seized and closed.

77. Religious celebrations were closely supervised and Church leaders regarded as uncooperative were removed from power. The most famous case was that of Archbishop Ho Tan Khoa, who had been stripped of his functions and humiliated in public. Some other bishops had been imprisoned, and both members of the clergy and laymen had been sentenced to death and executed. The measures adopted against the Caodaist Church were in violation of articles 18, 19 and 20 of the International Declaration of Human Rights and

articles 2, 18, 21, 26 and 27 of the International Covenant on Civil and Political Rights.

78. Mr. KADJAR-HAMOUDA (International Federation Terre des Hommes) said that the indigenous peoples of Brazil had long been the victims of ethnic, religious and linguistic discrimination and, despite the proclamation of the International Year of Indigenous Peoples, their plight had worsened in 1993. According to official statistics, 42 Indians had been murdered, including 16 by gold-diggers, considerably more than in 1992. The killings in question must be seen in connection with the process to draw the boundaries of and legalize the indigenous territories, legislation adopted in 1988 having fixed a five-year deadline for the federal Government to complete the work.

79. The deadline had expired on 5 October 1993, but the drawing of boundaries had not even begun in 106 of the 521 territories, and in only 89 cases had the process been completed. All work had stopped in October 1993, because many cases had been submitted to the General Staff of the armed forces to assess whether the size of the territories could not be reduced; an utter violation of the law. The situation was alarming, because the federal Government had failed to meet its commitments, and business interests were increasingly in a position to seize indigenous lands.

80. Thus, the general context favoured constant invasions of the indigenous territories and, what was worse, guaranteed impunity to those who disobeyed the law even those who had perpetrated massacres, such as the 1988 "Capacete" massacre, in which 15 Ticuna Indians had been killed and 34 others seriously wounded, perpetrated by forestry workers at the orders of a rich property owner, or the constant attacks by lumbermen and fishermen on the Korubo people, living near the Peruvian border, four of whom had been murdered by 12 non-Indians in August 1989.

81. In the village of Haximu, on the Brazilian-Venezuelan border, 16 Yanomami Indians had been massacred in two separate attacks in July and August. Police investigations had revealed that gold-miners were deliberately seeking to annihilate the village. Suspects had been arrested in the case and witnesses were currently being heard. However, the long delays of the legal process meant that the perpetrators continued to go unpunished and sometimes committed further crimes.

82. Violence and clashes with gold-miners and mining companies were everyday occurrences for the indigenous peoples. In 1993, the middle Rio Negro area had been invaded by more than 2,000 gold-miners who had plundered the region, doing tremendous damage to the indigenous populations and the environment. Although a federal judge had ordered them to withdraw, they had since returned and had resumed their exploitation; characterized by reckless environmental damage in a sensitive region.

83. The Commission should urge the Government of Brazil to accelerate the demarcation of all indigenous territories in the country in accordance with the constitutional rules established on 5 October 1988, particularly article 231 of the Federal Constitution; guarantee respect for the Constitution, which held the State directly responsible for the well-being of indigenous peoples; guarantee prosecution for massacres and other acts of

violence against indigenous peoples; and prevent the return of the gold-miners to the middle Rio Negro area.

84. Mr. TARAN (Commission of the Churches on International Affairs of the World Council of Churches) said that the plight of migrant workers, refugees, asylum seekers and other uprooted populations continued to be a matter of serious concern. He therefore welcomed the most recent ratifications of and signatures to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and urged other States to take the same action as soon as possible.

85. Some 100 million people had already crossed borders as migrants or refugees and that number would continue to swell in response to increasing pressures. Warfare, civil strife, persecution and ethnic conflict were among the root causes of migratory flows. Environmental degradation, including desertification and industrial contamination, was also a contributing factor, as were land-development projects, which sometimes resulted in the displacement of entire communities.

86. The international community was beginning to recognize that the only way to put an end to forced migration of populations was to eliminate the root causes. The forthcoming International Conference on Population and Development would provide an occasion to emphasize that point and to stress the relationship between migration and the protection of basic human rights. As an expression of their commitment, the churches and non-governmental organizations were to hold the first meeting of an international migrants rights watch committee during the International Conference. It was essential that the final statement of the Conference include a specific appeal to States to ratify the International Convention.

87. The rising hostility towards migrant workers and other foreigners, exacerbated by the traumas of recession and unemployment, had become a world-wide phenomenon and represented a lack of respect for human dignity and the rule of law. In some instances, it threatened the basic fabric of civil society. Unless the basic human rights of migrants were fully recognized and protected, a climate of serious xenophobic violence could develop in the future.

88. His organization endorsed the preliminary conclusions and recommendations contained in the report of the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance (E/CN.4/1994/66), particularly with regard to fostering tolerance in societies. It was encouraged by the reference in the Vienna Declaration and Programme of Action to the need to guarantee the protection of the human rights of all migrant workers and their families.

89. In January 1994, the governing body of his organization had mandated the development of a major new church policy on uprooted people, which would recommend ways for the churches to protect such people, uphold their dignity and challenge the hostility to foreigners. It would also suggest that the churches should pay particular attention to alleviating the root causes of migration.

90. The Commission should strongly urge the States that had not yet done so to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Centre for Human Rights should consider organizing briefing seminars on the Convention to assist Government officials and legislators in the ratification process. Sufficient resources must be allocated so that the planned fact sheet and the text of the Convention could be widely distributed. The Secretary-General should, in future, include in his report on the status of the International Convention full details on the Secretariat's activities to promote the rights of migrant workers.

91. Mr. OZDEN (Centre Europe - Tiers Monde) said that, although it might be difficult to believe, slavery and servitude existed within the diplomatic community in Geneva. Employees of the permanent missions to the United Nations, or of diplomats and international civil servants, often worked under conditions that were unacceptable in Switzerland, in violation of the basic international and national labour laws and contrary to the Universal Declaration of Human Rights. Such conditions included 12 to 18-hour working days; no social security, retirement, unemployment or family benefits; extremely low wages and infrequent holidays.

92. The Syndicat sans Frontières, which represented those workers, had provided a number of specific examples, nine of which he quoted. Some of the employees had never been paid at all, others had been paid a mere pittance. Over the last three years the Syndicat sans Frontières had approached, among others, the Permanent Mission of Switzerland to the United Nations, the Secretary-General of the United Nations, the Director-General of the International Labour Office and various ambassadors and ministers of labour, in an endeavour to negotiate better working conditions for the staff concerned, but with little result.

93. The Vienna Convention on Diplomatic Relations did not provide for diplomatic immunity in respect of working relationships and could not be invoked for the purpose of exploiting workers employed by missions and diplomats. The Convention stipulated that workers should benefit from a social security regime and there was no clause excluding employees of missions or embassies from such benefits.

94. The Commission must take immediate action to put an end to that scandalous situation; in particular, it should set up a committee of inquiry to investigate the situation of staff employed by the diplomatic community. If the Commission could not ensure respect for the instruments pertaining to workers' rights, there was no point in hoping that oppressor States would do as much.

95. Mr. ROELAND BOS (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) said that he welcomed the initiative to set up a working group specifically concerned with the rights of minority groups, thus reflecting the growing recognition that the protection of minorities was an important human rights issue and contributed to the maintenance of international peace and security. The working group should be mandated to review compliance with the Declaration

on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

96. While it did not go far enough in protecting minorities, the Declaration was important because it reflected an international consensus with regard to minimum standards that must be applied to all minorities. Certain Governments might prefer to sweep the minority groups issue under the carpet, but it was a problem that existed and had to be acknowledged. Ignoring it led only to tension and even conflict, which was certainly not in the interest of any State.

97. He welcomed the fact that the Government of Albania had not only recognized the problems of the ethnic Greek minority in that country but was also taking action to remedy them. A recent mission to Albania had found that relations between the Albanian and Greek communities were good and that the main source of tension was the question of Greek-language education. The Albanian Government had, however, assured the mission that it would, in the near future, enact legislation to establish Greek classes or schools in areas with a sufficiently large Greek population.

98. The situation of ethnic Albanians in the Former Republic of Macedonia was a cause for concern, the more so in that it appeared that the Slav population of Macedonia was unwilling to recognize the problem. The mission to Albania had also visited Macedonia and had found that the Albanian population was suffering discrimination, in particular with regard to education and public services. Albanians made up some 35 to 40 per cent of the total population; they should be regarded as equal partners of the Slav Macedonians and should be entitled to the same privileges and benefits.

99. He welcomed the fact that a census was to be held to determine the exact number belonging to each of the ethnic groups there; that might help establish a more realistic basis for inter-ethnic relations. However, the formalities involved were giving rise to confusion among the Albanians and might be part of an effort to limit the number of Albanians counted. The international community should monitor the phases preparatory to the census, and the census itself.

100. There were a number of situations in which Governments had refused to deal with the legitimate concerns and aspirations of the minorities in their populations such as Abkhazia, where the Georgian Government had refused to discuss the possibility of a federal system and had tried to impose a unitary State, with a resultant bloody war; and Papua New Guinea where the refusal of the Government to negotiate with the Bougainville leaders had resulted in intolerable human rights violations.

101. The special envoy of the Secretary-General was endeavouring to find a solution to the situation in Abkhazia. A similar initiative would be welcome in Bougainville.

102. Mr. STROHAL (Austria) said that the current speed at which nationalist conflicts were spreading called for even more rapid efforts to solve the problems relating to minority groups. There was a real need for a system of preventive diplomacy, which could stop unresolved conflicts, fuelled by the

weight of history, from degenerating into a po.itical and emotional morass. Diplomats and politicians must have the necessary instruments for conflict resolution. The need for urgent action had been further dramatized by the horrifying events in the former Yugoslavia, where the combatants were simply ignoring the provisions of a whole range of human rights instruments.

103. The milestone that had been passed with the adoption of the Declaration in 1992 had given rise to a new dynamism at the international, regional and national levels. At the summit meeting of the Council of Europe, held in October 1993, the European States had committed themselves to elaborate legally binding instruments for the protection of national minorities and had agreed on a wide variety of complementary measures. Within the framework of the Central European Initiative, the first draft of an instrument for the protection of minorities had already been submitted to the Governments involved.

104. The Conference on Security and Cooperation in Europe had demonstrated, particularly through the establishment of the post of High Commissioner for National Minorities, the importance of finding peaceful and constructive solutions to problems involving minorities, including the use of early-warning and preventive measures. The High Commissioner had set in motion several successful activities relating to the Eastern European States.

105. The World Conference on Human Rights had called for action in favour of minorities on several fronts. In the first place, national measures were needed and national institutions had to be established. Steps to be taken in that connection included the creation of an adequate forum for the representation of minorities, access to language instruction, and the use of minority languages before the courts and in other spheres of public life. States should also take steps to ratify the optional protocol to the International Covenant on Civil and Political Rights and other relevant instruments.

106. His own country had established ethnic advisory councils which provided advice on matters concerning ethnic groups and represented and safeguarded their interests. The councils had to be consulted before the promulgation of legislation and with regard to general planning measures.

107. Secondly, the World Conference had called upon the Centre for Human Rights to provide qualified expertise on minority issues and human rights, as well as on the prevention and resolution of disputes, to assist in existing or potential situations involving minorities. The High Commissioner for Human Rights should pay careful attention to that area and ensure closer coordination between the Centre for Human Rights and other international and regional organizations. The final report of the Special Rapporteur (E/CN.4/Sub.2/1993/34 and Add.1-4) contained a range of possibilities for facilitating the peaceful and constructive solution of problems involving minorities and provided a very useful basis for further action.

108. Lastly, the World Conference on Human Rights had called on the Commission to examine ways and means of implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Commission must thus establish the framework for the measures being planned for the protection and promotion of the rights of minorities. In that connection, it would be appropriate to appoint an expert to collect the views of Governments on the issue of minority rights and present them to the Commission.

The meeting rose at 1.10 p.m.